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12	Attorneys for Defendant APPLE INC.	
13 14	(additional counsel listed on signature page)	
15	UNITED STATES	DISTRICT COURT
16	NORTHERN DISTR	ICT OF CALIFORNIA
17	SAN JOS	E DIVISION
18	MARTIN VOGEL and KENNETH	Case No. C06-05208-JF
19	MAHONEY, on Behalf of Themselves and All Others Similarly Situated,	STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING
20	Plaintiffs,	AND RELATED MATTERS
21	V.	- th
22	STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V.	Department: Ctrm 3, 5 th Floor Judge: Honorable Jeremy Fogel
23	CAMPBELL, MILLARD S. DREXLER, ALBERT GORE, JR., ARTHUR D.	
24	LEVINSON, JEROME P. YORK and APPLE COMPUTER, INC.,	
25	Defendants.	
26		
	(contion continued on following nage)	
27	(caption continued on following page)	

1 2	MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,	Case No. C08-03123-JF
3	Plaintiffs,	
4	V.	
5	APPLE, INC., STEVEN P. JOBS, FRED ANDERSON, NANCY HEINEN, WILLIAM	
6	V. CAMPBELL, MILLARD S. DREXLER, ARTHUR D. LEVINSON, and JEROME P.	
7	YORK	
8	Defendants.	
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STIPULATION & [PROPOSED] ORDER C06-05208-JF

1	WHEREAS, on August 24, 2006, plaintiffs Vogel and Mahoney filed a class action
2	complaint in this Court alleging that certain defendants violated the Securities Exchange Act of
3	1934 (the "Exchange Act"), including § 10(b) and Rule 10b-5 thereunder, and § 20(a). That
4	action is styled as Martin Vogel and Kenneth Mahoney v. Steven Jobs, et al., Case No. 5:06-cv-
5	05208-JF (N.D. Cal.) ("Vogel I");
6	WHEREAS, on January 19, 2007, this Court appointed the New York City Employees'
7	Retirement System ("NYCERS") as Lead Plaintiff in Vogel I and Grant & Eisenhofer P.A. as
8	Lead Counsel in Vogel I;
9	WHEREAS, on March 23, 2007, NYCERS filed, as Lead Plaintiff, the Consolidated
10	Complaint and asserted claims under §§ 14(a) and 20(a) of the Exchange Act and for the alleged
11	breach of the common law duty of disclosure. The Consolidated Complaint did not assert any
12	claims for alleged violations of §10(b) of the Exchange Act or Rule 10b-5 thereunder;
13	WHEREAS, on November 14, 2007, this Court granted the defendants' motion to dismiss
14	the Consolidated Complaint ("Dismissal Order");
15	WHEREAS, on December 14, 2007, NYCERS filed a motion for leave to file a First
16	Amended Consolidated Class Action Complaint to assert claims for alleged violations of § 10(b)
17	of the Exchange Act and Rule 10b-5 thereunder;
18	WHEREAS, on May 14, 2008, this Court denied NYCERS's motion for leave to file a
19	First Amended Consolidated Class Action Complaint ("Denial Order");
20	WHEREAS, on June 12, 2008, this Court entered Judgment for the defendants
21	("Judgment");
22	WHEREAS, on June 17, 2008, NYCERS filed its Notice of Appeal of the Dismissal
23	Order, the Denial Order, and the Judgment ("NYCERS's Appeal");
24	WHEREAS, on June 27, 2008, plaintiffs Vogel and Mahoney filed a new class action
25	complaint in this Court alleging that certain defendants violated the Exchange Act, including
26	§ 10(b) and Rule 10b-5 thereunder, and § 20(a). That action is styled Martin Vogel and Kenneth
27	Mahoney v. Apple Inc., et al., Case No. 5:08-cv-03123-JF (N.D. Cal.) ("Vogel II");

1	WHEREAS, pursuant to the parties' stipulation, on July 22, 2008, this Court entered an
2	Order staying Vogel II pending resolution of NYCERS's Appeal;
3	WHEREAS, on January 28, 2010, the Ninth Circuit Court of Appeals issued a ruling in
4	NYCERS's Appeal affirming the Dismissal Order and reversing the Denial Order;
5	WHEREAS, on February 19, 2010, the Ninth Circuit issued a mandate in NYCERS's
6	Appeal;
7	WHEREAS, on March 22, 2010, NYCERS filed a First Amended Consolidated Class
8	Action Complaint in Vogel I captioned In Re Apple Inc. PSLRA Backdating Litigation ("First
9	Amended Complaint");
10	WHEREAS, the Court has scheduled a Case Management Conference in Vogel I on April
11	30, 2010, at 10:30 a.m.;
12	WHEREAS, the Court has scheduled a Case Management Conference in Vogel II on Apri
13	9, 2010, at 10:30 a.m.;
14	WHEREAS, the parties believe that Vogel I and Vogel II concern substantially the same
15	parties, transactions or events and involve common questions of law or fact, and should be
16	deemed related pursuant to Civil Local Rule 3-12 and consolidated pursuant to Rule 42 of the
17	Federal Rules of Civil Procedure to avoid unnecessary cost or delay;
18	NOW, THEREFORE, THE PARTIES STIPULATE, AND THE COURT HEREBY
19	ORDERS, THAT:
20	1. <i>Vogel I</i> and <i>Vogel II</i> shall be deemed related pursuant to Civil Local Rule 3-
21	12 and <i>Vogel II</i> shall be consolidated with <i>Vogel I</i> pursuant to Rule 42 of the Federal Rules
22	of Civil Procedure and 15 U.S.C. § 78u-4(a)(3)(B). NYCERS shall be Lead Plaintiff and
23	Grant & Eisenhofer P.A. shall be Lead Counsel with respect to the consolidated action.
24	2. The docket in <i>Vogel I</i> (Case No. 5:06-cv-05208-JF) shall constitute the Master
25	Docket for this proceeding.
26	//
27	//
28	//

1 3. Every pleading in this proceeding shall bear the following caption: 2 UNITED STATES DISTRICT COURT 3 NORTHERN DISTRICT OF CALIFORNIA 4 SAN JOSE DIVISION 5 IN RE APPLE INC. Case No. C06-05208-JF SECURITIES LITIGATION 6 **CLASS ACTION** 7 THIS DOCUMENT RELATES TO: 8 9 4. When a pleading is intended to be applicable to all actions to which this 10 Order is applicable, the phrase "All Actions" shall appear immediately after the words "This 11 Document Relates To:" in the caption set out above. When a pleading is intended to be 12 applicable only to some, but not all, of such actions, the document shall list, immediately 13 after the phrase "This Document Relates To:", the docket number for each individual action 14 to which the document applies, along with the last name of the first-listed plaintiff in any 15 such action. 16 5. The Case Management Conference set for April 9, 2010, at 10:30 a.m. in 17 *Vogel II* shall be vacated. 18 6. The Case Management Conference set for April 30, 2010, at 10:30 a.m. in 19 *Vogel I* shall remain on calendar. 20 7. The First Amended Complaint filed in *Vogel I* shall be the operative 21 complaint for the consolidated action. Plaintiffs shall re-file the First Amended Complaint 22 with a corrected caption page to reflect the caption for the consolidated action. This 23 consolidation does not affect any separate right or defense asserted in any of the 24 consolidated actions. 25 8. Defendants shall file their responses to the First Amended Complaint by 26 June 25, 2010. 9. 27 In the event that Defendants respond to the First Amended Complaint by 28 filing motions, the briefing and hearing schedule for Defendants' motions will be:

1	Plaintiffs' Oppositions Du	e: July 27, 2010
2	Defendants' Replies Due:	August 17, 2010
3	Hearing:	To be set by the Court.
4	10. Defendants shall not be red	quired to file any responsive pleading to the
5	pending complaint in Vogel II.	
6	IT IS SO STIPULATED.	
7	Dated: April 7, 2010	GEORGE A. RILEY O'MELVENY & MYERS LLP
9		By: /s/ George A. Riley
10		George A. Riley
11		Attorneys for Defendant APPLE INC.
12		
13	Dated: April 7, 2010	DOUGLAS R. YOUNG (S.B. #73248) FARELLA BRAUN & MARTEL LLP
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17		, ,
18		By: /s/ Douglas R. Young Douglas R. Young
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21		ARTHUR D. LEVINSON and JEROME B. YORK
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2728		
۷۵		A STIPULATION & [PROPOSED] ORDER

1	Dated: April 7, 2010	JEROME C. ROTH (S.B. #159483) YOHANCE C. EDWARDS (S.B. #237244)
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		- 5 - STIPULATION & [PROPOSED] ORDER C06-05208-JF

1 2	Dated: April 7, 2010 PATRICE L. BISHOP (S.B. #182256) STULL, STULL & BRODY
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15	Attorneys for Plaintiffs MARTIN VOGEL and KENNETH MAHONEY
16	
17	I, George A. Riley, am the ECF User whose ID and password are being used to file this
18	Stipulation and [Proposed] Order Regarding Scheduling and Related Matters. In compliance with
19	General Order 45, X.B., I hereby attest that Douglas R. Young, Yohance C. Edwards, Michael J.
20	Barry, and Patrice L. Bishop have concurred in this filing.
21	By: _/s/ George A. Riley
22	George A. Riley
23	<u>ORDER</u>
24	PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.
25	
26	DATED: April, 2010
27	The Honorable Jeremy Fogel United States District Judge
28	MP1:1191444.3
	- 6 - STIPULATION & [PROPOSED] ORDER